United Nations A/AC.109/2009/14

General Assembly

Distr.: General
19 March 2009

Original: English

Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and People

United States Virgin Islands

Working paper prepared by the Secretariat

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I. Background information

1. The United States Virgin Islands is a Non-Self-Governing Territory administered by the United States of America. The Territory is located in the eastern part of the Caribbean Sea, 1,075 miles south-east of Miami and 60 miles east of Puerto Rico. The total land area is about 352 square kilometres.[1] The Territory is made up of three main islands (St. Croix, St. John and St. Thomas) and one small island (Water Island). The capital, Charlotte Amalie, is located on St. Thomas. The Islands were Danish territory from 1754 to 1917, when they were purchased for $25 million by the United States of America. United States' citizenship was granted to the inhabitants of the islands in 1927. The Office of Insular Affairs carries out the Secretary of the Interior's responsibilities for the Territory.

2. The population of the Territory for 2008 estimated at 108,612, was close to the figure for 2007, with approximately 4,250 people living in St. John and the rest almost equally divided between St. Thomas and St. Croix. The composition of the Territory's population is 78 per cent black, 13 per cent white and 9 per cent other.[2] A population and housing census is planned for 2010.[3]

II. Constitutional, political and legal issues

3. The United States Virgin Islands is an organized, unincorporated Territory of the United States. Under the Organic Act of the Virgin Islands (1936) and its revision in 1954, the Territory has a measure of self-government over local affairs, including a Legislature, a unicameral body comprising 15 senators that are elected for a two-year term by popular vote. Executive power is vested in a Governor, who has been elected on the same ticket as the Lieutenant-Governor since 1970 by popular vote for a four-year term. The Governor is limited to two consecutive terms, but can be elected again after one full term out of office. The Governor appoints, with the advice and consent of the Legislature, the heads of the executive departments and has the power to approve or veto legislation and issue executive orders. In the November 2006 election for the position of Governor, John deJongh of the Democratic Party won a run-off against the Independent Party candidate with 57 per cent of the vote. On the national level, the Territory elects a delegate to the United States Congress, who is able to vote in committees.

4. The Territory's last legislative elections, held on 4 November 2008, resulted in the election of 15 senators, namely, 10 Democrats, 2 members of the Independent Citizens' Movement and 3 non-party affiliates. The next legislative elections will be held in November 2010. Democratic Candidate Donna M. Christensen ran unopposed in the general election and was re-elected to a seventh two-year term as the United States Virgin Islands Delegate to the United States Congress. In January 2009, she

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Note: The information contained in the present paper has been derived from published sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations.

[1] Executive Budget for Fiscal Year 2009, p. 2; available at http://www.vi.gov/gvi-news/governor-de-jongh-presents-the-executive-budget-for-fiscal-year-2009.html.

[2] Office of Insular Affairs (www.pacificweb.org); United States Central Intelligence Agency, *The World Factbook*, last updated 19 March 2009.

[3] Congressional Quarterly, 21 May 2008.

was named to three subcommittees, namely on Health, Telecommunications and the Internet, and Oversight and Investigations.[4]

5. The Territory's judicial system has a District Court, a Superior Court and a Supreme Court. The Supreme Court which swore in its judges in December 2006, became operational in January 2007. The Supreme Court of the Virgin Islands is the appellate court of the Virgin Islands that hears appeals decided by the Islands' Superior Court. The establishment of the Supreme Court eliminates federal judicial involvement in purely local legal matters. More information on the Territory's judicial system can be found in the 2005 working paper (A/AC.109/2005/9).

6. Since the Organic Act of the Virgin Islands was revised by the administering Power in 1954, there have been four attempts to replace it with a locally written constitution approved by the people of the Territory, which would organize the internal mechanisms of Government. Although the United States Congress authorized the adoption of a local constitution in 1976, none of the four attempts made were successful.

7. In October 2004, former Governor Charles W. Turnbull signed into law the Fifth Constitutional Convention, which was to be the fifth attempt at elaborating a local constitution. After years of delay, an election for 30 delegates to form the Constitutional Convention took place in June 2007. The Convention opened on 29 October 2007. Initially, the elected delegates had until July 2008 to draft a constitution, but the 27th Legislature amended the enabling legislation, extending the time to 31 May 2009 at the request of the delegates. Once completed the draft has to be approved by a two-thirds majority of the Convention delegates.[5] The constitution will then be forwarded to the Governor, who has 60 days to add his comments before it is submitted to the United States Congress, which also has 60 days to review it, as well as the power to add or delete by amendment. Upon approval by Congress, a referendum could be held in the Virgin Islands to ratify the document.[6]

8. The Convention is working in 12 standing committees covering different issues such as legislation, jurisdiction, citizenship, finance and education.[7] Since the inauguration of the Convention, the delegates have expressed their concerns about the financial and organizational resources provided to them. In January 2008, the delegates approved a new budget proposal of $3.3 million to present to the territorial legislature.[8] In the Governor's revised budget of January 2009, an additional $200,000 was provided. As of 9 December 2008, the Convention had received a total of $418,290 in territorial Government funding to do its work. Questions have been raised by some delegates about the need for more funding for the Constitutional Convention from the administering Power. The issue was also raised on behalf of the President of the United Nations Association of the Virgin Islands by a petitioner addressing the Special Committee meeting on 11 June 2008.[9]

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[4] See www.donnachristensen.house.gov.

[5] Information provided by the administering Power on 23 January 2009.

[6] *The Virgin Islands Daily News*, 27 October 2007 (www.virginislandsdailynews.com).

[7] Ibid., 30 October 2007.

[8] *St. Thomas Source*, 15 January 2008; *The Virgin Islands Daily News*, 13 February 2007.

[9] See United Nations press release regarding the statement made by Judith Bourne: http://www.un.org/News/Press/docs/2008/gacol3177.doc.htm.

9. Questions have also been asked about the Convention's public records policy. In January 2009, the Constitutional Convention's executive committee embarked on a new policy whereby the circulation of the Convention's draft documents that the delegates were to debate and amend would be restricted. Such documents had previously been made available to everyone who attended Convention meetings. In this connection, one member of the Convention's executive committee, Mary Moorhead explained that some people were broadcasting incorrect information about the draft constitution based on incomplete drafts. Hearings are tentatively planned for April 2009 to share with the public the content of the draft constitution and to give the population a chance to recommend changes.[10]

10. At the Pacific regional seminar on decolonization, held in Indonesia in May 2008, Tregenza Roach of the University of the Virgin Islands, spoke about the University's role and the ramifications of the Constitutional Convention and the public education programme that the University was undertaking to inform the public in that regard. The public education programme is mandated by local law in support of the Constitutional Convention.[11]

11. During the previous seminar held in Grenada in 2007, the President of the University of the Virgin Islands, Dr. LaVerne Ragster noted that while the term "local constitution" appeared to suggest that it was an act of self-determination, United States federal law clearly stated that no local constitution could affect the United States Virgin Islands' status as a "territory or other property" of the United States as referred to in the territorial clause of the United States Constitution. This was confirmed in the United States Public Laws 94-584 of 21 October 1976, and 96-597 of 24 December 1980, where it is specified that such a constitution should "recognize, and be consistent with, the sovereignty of the United States over the Virgin Islands". According to Dr. Ragster, the formulation of a local constitution, however, would not prevent the residents of the Territory from one day making a determination with regard to its ultimate political status.[12]

12. Regarding the Territory's political status, the first and only referendum on a range of political options was conducted in 1993. However, only 27 per cent of the electorate voted and, of those, 80.3 per cent voted to retain the current status. The result was considered invalid since less than 50 per cent of the electorate had voted.

III. Budget

13. The Territory's fiscal year begins on 1 July 2009. The Governor submitted a revised Financial Year 2009 Budget to the 28th Legislature on 9 January 2009, reflecting the current state of the global economy which continued to negatively affect the Territory. The Governor cautioned the incoming 28th Legislature that the upcoming fiscal year would be one of the most challenging in the Islands' history.[5]

14. On 13 January 2009, members of the 28th Legislature unanimously approved the revised $839 million budget, up from $779 million in 2008. The Director of the

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[10] *The Virgin Island Daily News*, 5 March 2009.

[11] The full statement can be found at http://www.un.org/Depts/dpi/decolonization/regional_seminars_statements_08/Tregenza%20Roach.pdf.

[12] The full statement can be found at http://www.un.org/Depts/dpi/decolonization/docs/seminar_statements_07/DP3%20Ragster.pdf.

Office of Management and Budget informed the Senate that General Fund revenues were projected to be $70.2 million less than previously projected in September 2008. Due to adjustments in Internal Revenue Matching Fund contributions and utilization of the budget stabilization or rainy day fund, the shortfall had been reduced to $36.8 million, which had been made up through budget cuts.[5] The revised budget has given priority to funding for negotiated salary increases for Government employees, and to provide for a recently approved health insurance contract which covers Government employees, retirees and their dependents. The revised budget also provides funding for an increased 3 per cent employer contribution to the Government Employees Retirement System,[13] which in October 2008 had reported a $66 million deficit in operational cash flow.[14]

15. As previously reported, legislation which repealed a 1936 federal law limiting the authority of the territorial Government to administer its own property tax system became law in 2007. In March 2008, the territorial Senate passed a property tax reform law which was signed into law by the Governor.[15] According to the administering Power, the Territory has moved towards finishing other needed steps, but has not yet had an original 2003 court injunction lifted. The Government went ahead and sent out tax bills based on new rates in August 2009, but was held in contempt of court by the District Judge who ordered the tax bills rescinded. The Government has appealed the ruling to the United States Third Circuit Court of Appeals and is awaiting a ruling.[5] According to the Governor, the current litigation has kept the Territory from collecting property taxes for the past two years. The Territory ended the fiscal year 2008 with a $70 million shortfall because of its inability to collect property taxes and could face up to $146 million in operating budgetary shortfalls if the matter is not resolved during the current fiscal year.

16. On 10 June 2008, the territorial Government approved legislation implementing tax increment financing in the Territory, an economic development tool that allows the Government to issue bonds based on projected increases in property and gross receipts taxes for a business or residential venture developed on government-owned land.[16] It is hoped that the programme will be a powerful economic development tool to harness future revenues to pay for current infrastructure and attract development in the Territory.[17]

17. On 28 April 2008, the administering Power announced a $41.5 million tax reimbursement for the Territory, as part of its Federal Economic Stimulus Act.[18] In addition, on 19 February 2009, the Governor announced that the Territory's economy stood to receive about $244.2 million in federal stimulus funding (see section IV below).

18. According to information provided by the administering Power, a significant milestone was achieved on 7 January 2009 when the United States Department of Housing and Urban Development (HUD) transferred 34 acres of land on St. Thomas back to the Virgin Islands Government. The territorial Government had originally

[13] http://www.governordejongh.com/news/archive/2009/02/020609-1.htm.

[14] *Caribbean Net News*, 28 October 2008 (www.caribbeannetnews.com).

[15] http://www.governordejongh.com/news/archive/2007/06/062907-3.htm; *Caribbean Net News*, 8 February and 11 March 2008.

[16] *Caribbean Net News*, 11 June 2008.

[17] *Virgin Islands Daily News*, 11 June 2008.

[18] State News Services, 28 April 2008 (http://www.statenewsservice.com/home.html).

sold the land to HUD for one dollar in 1995 with the understanding that HUD would construct much-needed affordable housing after Hurricane Marylyn had devastated the Territory earlier that year. The lack of construction of new homes, however, became a recurring issue of contention between HUD and the Virgin Islands Government. The Housing Authority Executive Director memorialized the transfer by returning the original dollar that had marked the transfer.[19] In addition, on 19 February 2009, HUD awarded the Territory $570,662 in grants to help alleviate the homeless problem, marking the first time in recent years that the Territory has secured all available funding under the HUD Continuum of Care grant programme.[20]

IV. Economic conditions

A. General

19. During a press conference on 19 February 2009, the Governor said that, although the details had not been finalized, the Territory stood to receive about $244.2 million in stimulus funding. To ensure full accountability for incoming federal funds, the Governor announced plans to establish a new Office of Economic Opportunity as part of the Virgin Islands Public Finance Authority.[20]

20. The largest allocation of the stimulus money, $67 million, would become part of the territorial fiscal stabilization fund. According to the current formula, 81 per cent of these funds must be spent on educational initiatives. The second largest portion of funds, a total of $50 million, would go towards tax credits for residents of the Territory. Other large areas of funding in the stimulus package included more than $33 million for energy and water projects, $22.8 million for education programmes and nearly $20 million for transportation infrastructure.

21. For important infrastructure projects not covered by the stimulus package but in need of funding to be completed, the territorial Government planned to put forward a local stimulus bill. The Government's strategy to stabilize the local economy was to seek legislative authorization for the Virgin Islands Public Finance Authority to issue up to $400 million in gross receipts tax revenue bonds to provide financing for close to $341 million of essential public projects. For instance, the construction sector was experiencing very little private development activity, and the territorial Government estimated that their proposal would create 265 new full-time jobs and increase wages in the Territory by over $100 million, thereby also increasing governmental tax receipts by $60 million over a six-year period.[5]

22. A key element in the Territory's economic policy continues to be the Economic Development Commission tax incentive programme. Responsible for promoting the development and diversification of the territorial economy, the Commission is empowered to grant tax reductions such as full exemption from property taxes and up to 90 per cent of local income taxes (see also paragraphs 36-37, below).

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[19] Information provided by the administering Power on 23 January 2009; see also *The Virgin Islands Daily News*, 8 January 2009.

[20] *The Virgin Islands Daily News*, 20 February 2009.

B. Tourism

23. The tourism sector is the most important industry on the Islands, accounting for about 70 per cent of gross domestic product (GDP). According to the Governor's January 2009 State of the Territory Address, overall tourism numbers fell sharply at the end of 2008. Hotel occupancy had declined by one third, average hotel rates had fallen 25 per cent and cruise passenger spending had been curtailed.[21]

24. The tourism sector, however, is expected to rebound in fiscal year 2009 stemming from a strong collaborative marketing and promotional campaign by the Department of Tourism and the hotel and tourism associations to bring more overnight visitors to the Territory. The Tourism Department is increasing marketing efforts in Europe in order to take advantage of the depreciation of the United States dollar. As part of these efforts, in January 2009 the Department launched a new $250,000 website.[22] A resurgence is also expected in cruise passengers on St. Croix as some 50 cruise ship calls are scheduled for 2009 bringing 121,700 passengers and 44,000 crew members.[23]

25. For the first nine months of fiscal year 2008, which ended on 30 June 2008, the number of visitors to the Territory increased 3.3 per cent to 2,147,444 from 2,079,250 compared to the same period in fiscal year 2007. Air arrivals grew a strong 6.6 per cent, while cruise passenger arrivals were less robust at 3.3 per cent. For the same period, there were 561,168 air visitors compared to 526,534 air visitors for fiscal year 2007, and 1,586,276 cruise passengers compared to 1,552,716 the year before.

26. On 2 June 2008, the territorial Government announced the creation of a panel to address the reduced number of flights to the Islands. In July 2008, the Virgin Islands Port Authority launched an Air Service Development Project for St. Croix's Henry E. Rohlsen Airport, with the goal of improving the availability and affordability of air service between the Islands and the United States.[24] Talks were also initiated with small regional carriers to expand services to the Territory.[25] Since December 2008, same-day flight connections, four days per week via Atlanta, Georgia from Copenhagen to St. Thomas on Delta Air Lines has been in effect.[26]

27. In addition, on 31 October 2008, US Airways announced the return of non-stop flight service to the island of St. Thomas from two of the destination's key mainland markets, Philadelphia, Pennsylvania and Charlotte, North Carolina, representing an overall 3 per cent increase in air service to St. Thomas for the winter season compared to the same period in 2007.

28. In August 2008, the Department of Tourism and the Economic Development Authority hosted a Preparing the Path conference on St. Croix aimed at preparing the community for the return of the cruise ship industry, and in November, the agencies sponsored two days of free customer service training designed to prepare

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[21] State of the Territory Address, 26 January 2009 (http://www.governordejongh.com/features/2009/address/SOTT_text.pdf).

[22] *The Virgin Islands Daily News*, 29 January 2009.

[23] Executive budget for 2009, http://www.governordejongh.com/features/2008/budget/index.html.

[24] *Caribbean Net News*, 16 July 2008.

[25] The Associated Press, 3 June 2008.

[26] *Caribbean Net News*, 24 September 2008.

local business leaders and their front-line employees for the arrival of cruise passengers.[27]

C. Manufacturing and industry

29. The manufacturing sector contributes about 11 per cent of GDP and accounts for 5 per cent of jobs in the Territory. The sector remains dominated by Hovensa LLC, one of the largest and most modern refineries in the world. Situated in St. Croix, it produces approximately 495,000 barrels of refined petroleum products daily.[28]

30. The rum industry has consistently been the second biggest performer in the Territory's manufacturing sector. In July 2008, a 30-year agreement between the Government and the beer, wine and spirits producer Diageo PLC for the construction of a new rum distillery on St. Croix was signed into law. The agreement is expected to bring about $100 million a year in new excise tax revenues for the Territory throughout the 30-year period. Rum production is expected to start in 2012, with the distillery producing an average of 20 million proof gallons each year.[29] The construction plans are currently in the process of being approved.[21]

31. A tax rebate formula enacted by Congress in 1999, which favoured the export of rum to the United States for two-year periods at a time, expired on 31 December 2007. On 3 October 2008, the United States House of Representatives approved a two-year extension of the rum tax formula retroactively to 1 January 2008.[30]

32. Jewellery manufacturing had in recent years lost its importance in the Territory, but on 19 June 2008, the United States Departments of Commerce and the Interior issued a rule amending their regulations governing jewellery duty-refund benefits for producers in the Territory.[31]

D. Construction

33. Jobs in the construction sector remained weak during the period under review and had declined by 6.1 per cent by 30 June 2008. The number of construction jobs averaged 3,419 for the first nine months of fiscal year 2008 compared to 3,643 for the corresponding period in fiscal year 2007. Construction activity declined in part from a winding down of tourism-related development, housing and seaports, and the development of commercial and residential properties. The fall in residential construction is attributed to the tighter lending conditions and secondary effects of the sub-prime mortgage market collapse in the United States.

34. Construction activity is projected to increase in 2009 from private construction activities in hotel development, road construction, seaport expansion, public and private sector housing development and retail and commercial office space.[32] In

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[27] Ibid., 30 January 2009.

[28] www.hovensa.com.

[29] http://sts.onepaper.com, 25 July 2008.

[30] *Caribbean Business*, 9 October 2008 (www.caribbeanbusinesspr.com).

[31] *Federal Register*, vol. 73, No. 119 (19 June 2008).

[32] United States Virgin Islands Bureau of Economic Research, *Economic review* (July 2008) (http://www.usviber.org/otherdocuments.htm).

addition, the previously mentioned rum distillery facility is expected to break ground in the second quarter of 2009.

35. On 25 February 2009, the United States Department of Housing and Urban Development announced a $9,415,808 recovery grant to the Virgin Islands Housing Authority's Public Housing Capital Fund. That money will be used to make long-vacant apartments ready for occupancy and to make infrastructure improvements at the Territory's public housing communities.[33]

E. Financial services

36. The financial services sector, which holds a 6 per cent share of total employment, continues to show a decline in jobs, which is partly due to a drop in companies participating in the United States Virgin Islands Economic Development Commission incentive programme, brought about by the American Jobs Creation Act of 2004. The number of jobs in this sector averaged 2,470 for the first nine-month period of fiscal year 2008, down from 2,493 for the corresponding period in fiscal year 2007. The Act changed the residency requirement for the Economic Development Commission incentive programme, establishing that bona fide residents must be present in the Territory for at least 183 days over a period of three years. The final ruling also confirmed that taxes on income connected to United States sources should be paid to the United States Revenue Service. The residency and source income requirements ostensibly caused a number of companies to leave the Territory. Prior to the ruling, there were about 121 beneficiary companies; currently, there are 98 companies.[34]

37. The worldwide financial service provider Stanford Financial Group had applied to become a beneficiary of the territorial tax incentive programme. The company broke ground in February 2008 on a 37-acre site on St. Croix, building a complex that was to house the company's worldwide management functions.[35] In mid-February 2009 the company was accused of "massive ongoing fraud" by the United States Securities and Exchange Commission.

F. Agriculture and fisheries

38. Historically, sugar cane and to a lesser extent cotton were the main revenue sources for the Territory's economy. Currently, the agricultural sector, mainly fruit and vegetable cultivation and cattle-raising, accounts for only about 1 per cent of GDP and 1 per cent of the labour force, with most food being imported.[36] There are, however, renewed grass-roots efforts to improve the food security of the Territory. The President of the Virgin Islands Farmers' Cooperative received $600,000, provided by the United States Department of Agriculture through a loan agreement with the Virgin Islands Economic Development Authority, to enter into a long-term lease for 60 acres of land near the Beeston Hill area to increase the production and distribution of farm products.[5]

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[33] *The Virgin Islands Daily News*, 26 February 2009.

[34] United States Virgin Islands Bureau of Economic Research, *Economic review* (July 2008).

[35] *Caribbean Net News*, 9 January and 23 February 2008.

[36] Central Intelligence Agency, *The World Factbook*, 2008.

39. On 6 October 2008, it was announced that the Territory was eligible to receive grant monies which previously had been available only to the 50 contiguous states and Puerto Rico. The Specialty Crops Competitiveness Act of 2004 authorized the United States Department of Agriculture's Agricultural Marketing Service to provide nationwide assistance for the promotion of specialty crops. Apicultural specialty commodities such as honey, beeswax, and bee pollen are seen as having excellent production and market potential in the Virgin Islands.[37]

40. While the commercial fishing sector in the Territory is small, there is growing concern about the marine ecosystem and the fish population. In May 2008, the Department of Planning and Natural Resources announced that it would enforce a ban on fishermen using gill and trammel nets, as the nets were seen as contributing to overfishing. According to marine biologists and scientists, the nets are so effective that they capture entire schools of breeding fish, thus decimating species of fish. The decision to ban the nets will help the Territory meet a mandate set by the National Oceanic and Atmospheric Administration to stop overfishing by 2010, according to the Commissioner for the Department of Planning and Natural Resources.[38]

G. Transportation and communications

41. The Territory has five major docking facilities, which can accommodate cruise ships and some naval vessels. Three of the docks are on St. Croix, namely South Shore, Gallows Bay and Frederiksted. The remaining two are on St. Thomas, namely, the facilities operated in Crown Bay by the Virgin Islands Port Authority, a semi-autonomous Government agency, and the Islands-owned West Indian Company. The Port Authority operates two international airports, Cyril E. King Airport on St. Thomas and Henry E. Rohlsen Airport on St. Croix. In his 2009 State of Territory Address, the Governor confirmed the receipt by the Port Authority of $10 million in discretionary funding from the United States Department of Transportation for the Territory's airports after a five-year hiatus.[21]

42. In his 2008 State of the Territory Address, Governor deJongh announced that a priority in the Territory's multi-year investment plan would be to address traffic and transportation issues, encompassing roads, parking and inter-island transportation.[39] To that end, it was announced in November 2008, that $25.5 million has been allocated to a local infrastructure and improvement plan to tackle necessary projects expeditiously.[40]

H. Utilities, water and sanitation

43. Electricity is thermally generated using imported fuels. The Virgin Islands Water and Power Authority (WAPA) serves approximately 47,000 customers. The Territory's electric rates are among the highest in the United States. On 28 June 2008, the United States House Appropriations Committee included $500,000 for

[37] *Caribbean Net News*, 6 October 2008.

[38] *The Virgin Islands Daily News*, 24 May 2008.

[39] State of the Territory Address, 22 January 2008 (www.governordejongh.com/features/2008/address/remarks.html); *The Virgin Islands Daily News*, 24 January 2008.

[40] *Caribbean Net News*, 24 November 2008.

funding of a comprehensive engineering study of practical ways to connect the electricity grids between all three islands and to reduce utility bills for consumers in the Territory.[41] Moreover, according to the chief of WAPA, consideration has been given to the possibility of building a pipeline to bring in natural gas from a bigger grid in Puerto Rico.[42] On 10 April 2008, the territorial Government received a federal grant of $50,000 to explore options that would allow the Territory to reduce its dependency on imported petroleum by diversifying the Territory's energy options.[43]

44. Owing to limited freshwater supplies, salt water is used extensively for non-domestic purposes, including firefighting and sewerage. The Water and Power Authority desalinates water and collects rainwater for domestic use. A desalination plant on St. Thomas produces 4.45 million gallons per day. Wells, particularly on St. Croix, supply the remainder of the freshwater necessary. Owing to the high cost of water, average daily consumption is about 50 gallons per person per day, about one third the United States average.

45. On 8 May 2008, in a settlement with the United States Environmental Protection Agency, the territorial Government agreed to develop, fund and implement a campaign to foster the public's awareness of proper household waste management and disposal practices.[44]

V. Social conditions

A. General

46. On 21 May 2008, during a meeting at the United States House Natural Resources Subcommittee on Insular Affairs, it was explained that the Territory is excluded from the American Community Survey because of its relatively small size. This creates significant data disparities. Thus, the Territory cannot be compared to other states, whereas such comparisons are critical to understanding the extent of child poverty in the Islands and the challenges facing Islands communities.[45]

47. The exclusion of the Virgin Islands from United States based data sources also leads to the disparate consideration of the Territory from legislation critical to the well-being of children and families, such as the No Child Left Behind Act of 2001. United States based organizations and foundations also use the American Community Survey to determine need for funding. A health initiative by a major foundation left out the Territory because their data were not in the Survey, which was their basis for grant-making consideration.

48. In connection with a surge in crime in May 2008, the territorial Senator Basil C. Ottley, Jr., requested an emergency summit on poverty and crime in order to explore their linkage, while noting that the most lasting costs of poverty were

[41] Ibid., 28 June 2008.

[42] The Associated Press, 25 July 2008.

[43] US Fed News, 10 April 2008.

[44] United States Environmental Protection Agency, 8 May 2008, http://yosemite.epa.gov/OPA/ADMPRESS.NSF/d0cf6618525a9efb85257359003fb69d/36d463dfd89782e285257443007472ed!OpenDocument.

[45] CQ Congressional Testimony, 21 May 2008, http://corporate.cq.com/wmspage.cfm?parm1=12.

exacted from children. He noted that the territorial poverty rate was 27.4 per cent, compared to 12.7 per cent in the United States mainland, and that the rate of children living in poverty had increased to 35 per cent. According to Mr. Ottley the first step towards addressing the issues of poverty, crime and the economy was to develop a body of statistical knowledge which would provide a guide to educators, legislators and others in developing responsive and effective public policy.[46]

B. Labour

49. Employers in the Territory must follow federal and territorial labour laws, such as those regulating minimum wages, occupational health and safety standards and payment of Social Security tax and unemployment insurance. The minimum hourly wage reached $6.55 in July 2008. The unemployment rate in mid-2008 held almost steady at 5.9 per cent compared to 6 per cent in 2007.[47] Compared to the previous period, in mid-2008, 140 jobs had been added to the economy, mostly in the private sector, which provides about 70 per cent of the Territory's employment opportunities.[48]

50. However, according to the 2009 State of the Territory Address, layoffs in the private sector were increasing, businesses were closing and unemployment had begun to rise. Economic development and job creation therefore remained a priority area of action in the year ahead the Governor said.

51. The January 2009 stimulus package included a $250 bonus for retirees receiving United States Social Security payments and veterans receiving benefits, as well as extended unemployment insurance and $100 more in monthly benefits for the unemployed.

C. Education

52. Education is compulsory and free for all children between five and a half and 16 years of age. The territorial Department of Education administers 19 schools on St. Thomas and 17 on St. Croix.[48]

53. In April 2008, the United States Senate Committee on Energy and Natural Resources started hearings on a bill to authorize the Secretary of the Interior to enter into a long-term lease with the territorial Government to establish the first school on the island of St. John.[49] On 23 June 2008, the authorization of a $200,000 federal technical assistance grant to conduct various studies at a proposed site in Estate Catherineberg was announced.[50]

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[46] *St. Thomas Source*, 30 May 2008.

[47] United States Virgin Islands Bureau of Economic Research, *United States Virgin Islands Economic Review and Industry Outlook*, April 2008 (http://www.usviber.org/pdfs/EconReviewApr2008.pdf).

[48] Executive Budget for Fiscal Year 2009 available at http://www.vi.gov/gvi-news/governor-de-jongh-presents-the-executive-budget-for-fiscal-year-2009.html.

[49] *FNS Daybook*, 23 April 2008 (http://www.fnsg.com).

[50] *Caribbean Net News*, 23 June 2008.

54. As mentioned earlier, the January 2009 federal stimulus package included $67 million, of which 81 per cent must be spent on educational initiatives in the Territory.

55. According to the Governor's 2009 State of the Territory Address, annual yearly performance records have shown a 16 per cent increase in the number of third grade students attaining proficiency in reading, while proficiency in mathematics increased by 8 per cent among third graders and 12 per cent among fifth graders.[21]

56. The University of the Virgin Islands has campuses on St. Thomas and St. Croix and approximately 2,400 full- and part-time students. It offers bachelor's degree programmes in 33 fields and master's degree courses in education, business and public administration, as well as a more recent master's degree in marine and environmental science.[51]

D. Public health

57. According to the Bureau of Economic Research, 50 per cent of all United States Virgin Islands residents do not have health insurance, compared to 17 per cent nationwide.[52]

58. For fiscal year 2008, the Government's health insurance plan totalled $96.5 million, with the territorial Government paying 65 per cent of the plan's premiums and Government employees paying the remaining 35 per cent. The cost of the plan will increase to $103.8 million for fiscal year 2009.[47]

59. Unlike in the United States mainland, Medicaid (the federal- and state-funded health-care programme for low-income individuals and families) is not an entitlement programme in the Territory, which means that federal funding is capped. In testimony given at a meeting on Insular Affairs in Washington, D.C., in February 2008, Governor deJongh said that the federal Medicaid funding provided to the Territory was far from adequate, and requested more federal support to "ensure that the neediest residents in the Territories received no less favourable treatment than the neediest residents in the United States".[53]

60. In November 2008, Governor deJongh, joined voices with the Governors of the Commonwealth of the Northern Mariana Islands and Guam in requesting fair and equitable treatment for the United States insular territories regarding temporary increases for the federal medical assistance percentage. Under the Job Creation and Unemployment Relief Act of 2008 passed by the House of Representatives, the territories were not eligible for the additional federal medical assistance percentage point increases made available to the 50 states and the District of Columbia.[54] With regard to the 2009 federal economic stimulus money for the Territory, $9.2 million is included for additional Medicaid funds over two years.[55]

61. A new $18.5 million, 25,000 square foot Virgin Islands Cardiac Center at the Juan F. Luis Hospital in St. Croix opened on 23 October 2008. The Center is seen by

[51] www.uvi.edu.

[52] *St. Thomas Source*, 1 February 2008.

[53] Ibid., 27 February 2008.

[54] www.guamgovernor.net, 21 November 2008.

[55] *The Virgin Islands Daily News*, 10 March 2009.

many as having catapulted the Territory into the top tier of the Caribbean health-care system.[5]

62. In February 2009, the Virgin Islands Government entered into a three-year agreement with a Denmark-based pharmaceutical company and global leader in diabetes research and care, to promote diabetes awareness and prevention in the Virgin Islands. The agreement includes a $300,000 grant to the Territory, which will be disbursed over a three-year period.[56]

E. Crime and crime prevention

63. According to the Governor's 2009 State of the Territory Address, 2008 had seen a decline in homicides, an increase in the number of arrests, more successful prosecutions putting more criminals in jail, and the tripling of gun confiscations. The Virgin Island's 2007 homicide rate per capita was 42 for every 100,000 residents, compared to a national rate of 5.5 homicides per 100,000 residents, and the Territory continued to be one of the most violent places in the United States.[57]

64. Despite the use of auxiliary and retired police officers, the Territory continues to be challenged by staffing shortages in this sector, but recruitment efforts have been broadened to include off-island applicants.[58]

65. On 27 June 2008, the House Appropriations Committee of the administering Power included $600,000 for the funding of a new "911" emergency communications system for the Territory. The entire multi-year project is expected to cost a total of $9.5 million.[59]

66. On 4 November 2008, the Territory's Attorney General announced that the Territory's Department of Justice was the recipient of more than $679,000 in federal grants to assist in the development and enhancement of several territory-wide law enforcement programmes and initiatives.[60]

VI. Environment

67. On 26 March 2008, the National Parks Conservation Association published a report stating that the Territory's National Park and Coral Reef National Monument were at risk partly due to development on privately owned land within and adjacent to park boundaries. The report cited concerns about the effects of global climate change on sensitive coral reefs and warned that the development within park boundaries was causing the proliferation of damaging non-native species, as well as wildlife habitat fragmentation. The report also noted that chronic funding and staffing shortfalls had limited the ability of the National Park Service to protect the parks historic structures and marine ecosystems.[61]

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[56] *The Virgin Islands Daily News*, 28 February 2009, and www.governordejongh.com/news/archive/2009/02/index.html.

[57] *The Virgin Islands Daily News*, 16 January 2008.

[58] State of the Territory Address, 26 January 2009.

[59] *Caribbean Net News*, 28 June 2008.

[60] Ibid., 4 November 2008.

[61] States News Services, 26 March 2008.

68. The United States Virgin Islands faces recurrent hurricanes and flooding, in addition to being located within an earthquake-risk zone. The Federal Emergency Management Agency provides programmes of mitigation, preparedness, response and recovery in the Territory through the Virgin Islands Territorial Emergency Management Agency (VITEMA).

69. A strong earthquake jolted people awake on 11 October 2008 in both the British and the United States Virgin Islands, as well as in nearby Puerto Rico. The United States Geological Survey said the quake had a magnitude of 6.1 on the Richter scale. According to disaster officials in the British Virgin Islands there were no reports of significant damage or injuries.[62] For fiscal year 2009 federal funding for VITEMA is approximately $4 million.[63]

70. In October 2008, during Hurricane Omar authorities tried to contain oil spills after more than 40 boats sank or washed ashore. The storm caused more than $700,000 in damage to roads in St. Croix and destroyed more than 100 utility poles in the eastern region.[64]

VII. Regional organizations and other partners

A. United Nations system

71. The United States Virgin Islands is an associate member of the Economic Commission for Latin America and the Caribbean (ECLAC). In 2007, the territorial Government began seeking ties with the Caribbean Community (CARICOM).

B. Regional organizations and other partners

72. As previously reported, the question of the continued functioning of the Inter-Virgin Islands Council was addressed during the visit of Governor DeJongh to the British Virgin Islands in March 2007, when he underscored his commitment to seeing the Council continue to perform its vital role of addressing issues that are of concern to the two Territories.[65] It is expected that a further meeting of the Inter-Virgin Islands Council will be convened in 2009.

VIII. Military issues

73. The Territory stands to obtain its own United States Coast Guard presence sometime in early 2009 when a new boat will be assigned to the Territory. The boat will be involved in search and rescue, law enforcement, maritime homeland security and fisheries/marine sanctuary patrols, as well as illegal drug and alien migrant interdiction duties off the Islands and Puerto Rico.[5] On 20 February 2009, the first

[62] Associated Press, 11 October 2008.
[63] *The Virgin Islands Daily News*, 1 August 2008.
[64] Associated Press, 20 October 2008.
[65] http://www.governordejongh.com/news/archive/2007/03/031506-2.html.

United States Army Reserve unit was established in the Territory. The unit will have 21 members.[66]

IX. Future status of the Territory

A. Position of the territorial Government

74. Developments regarding discussions on the future status of the United States Virgin Islands are reflected in section II above.

B. Position of the administering Power

75. Most recently, in a letter dated 2 November 2006 addressed to the American Samoa Congressman, the Assistant Secretary of State for Legislative Affairs elaborated the position of the United States Government on the status of American Samoa and other United States Insular Areas, which was considered equally valid for 2008. In his letter, the Assistant Secretary indicated that the status of the Insular Areas regarding their political relations with the federal Government was an internal United States issue, and not one that came under the purview of the Special Committee of 24. The letter also noted that the Special Committee of 24 had no authority to alter in any way the relationship between the United States and those Territories and no mandate to engage the United States in negotiations on their status. The letter further stated that at the same time, in accordance with its obligations under the Charter of the United Nations to provide regularly to the United Nations statistical and other information of a technical nature relating to the economic, social, and educational conditions, the federal Government did submit annual updates on United States Territories to the Special Committee of 24 as a demonstration of United States cooperation as an administering Power and as a corrective to any errors in information that the Special Committee of 24 might have received from other sources.[67]

C. Action taken by the General Assembly

76. On 5 December 2008, the General Assembly adopted, without a vote, resolutions 63/108 A and B, based on the report of the Special Committee transmitted to the General Assembly[68] and its subsequent consideration by the Special Political and Decolonization Committee (Fourth Committee).[69] Section XI of resolution 63/108 B concerns the United States Virgin Islands. Under that section's operative paragraphs, the General Assembly:

> 1. *Welcomes* the establishment of the Constitutional Convention in 2007, and requests the administering Power to assist the territorial Government in achieving its political, economic and social goals, in particular the

[66] *The Virgin Islands Daily News*, 21 February 2009.
[67] *Samoa News*, 7 November 2006.
[68] *Official Records of the General Assembly, Sixty-third session, Supplement No. 23* (A/63/23).
[69] A/63/408.

successful conclusion of the ongoing internal Constitutional Convention exercise;

2. *Requests* the administering Power to assist the Territory by facilitating its work concerning a public education programme, consistent with Article 73 *b* of the Charter of the United Nations and, in that regard, calls upon the relevant United Nations organizations to provide assistance to the Territory, if requested;

3. *Reiterates its call* for the inclusion of the Territory in regional programmes of the United Nations Development Programme, consistent with the participation of other Non-Self-Governing Territories;

4. *Appreciates* the efforts made to continue the work of the Inter-Virgin Islands Council between the elected Governments of the United States Virgin Islands and the British Virgin Islands to advance cooperation between the two neighbouring Territories.